

IN THE UNITED STATES FEDERAL DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

CLIFF JOHNSON
Defendant.

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* CR. NO. 2:06cr-169-WHA
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**CLIFF JOHNSON'S MOTION TO COMPEL PRODUCTION OF DISCOVERY OR
IN THE ALTERNATIVE TO DISMISS**

COMES, James R. Cooper, Jr. who on behalf of his client Cliff Johnson, does move for an extension of time in which to file pretrial motions and further states as follows:

1. Mr. Johnson was found to be without sufficient funds to afford an attorney. This Court appointed Mr. Cooper to represent Mr. Johnson March 28, 2007.
2. The government has not provided discovery. Rather, the government tells counsel that counsel must contact Pro Legal Copies in Montgomery and pay for all discovery.
3. Mr. James Hurst of Pro Legal Copies has this day told Mr. Cooper that all discovery will cost approximately \$ 1200.00. Mr. Hurst said he wants to be paid within 15 to 20 days of providing the discovery. Several of the appointed counsel have paid for or charged the discovery and filed for reimbursement from the courts.
4. It appears that no attorney has been reimbursed to date for that expense. As this case may take 6-12 months to finish, if reimbursement comes at the end of the case as is normal, Mr. Johnson's attorney will be in essence floating a loan to the US Government for discovery costs. Mr. Johnson would be financing the government's case against himself. Mr. Cooper would have to pay finance charges so the government could prosecute Mr. Johnson.
5. Mr. Johnson cannot pay for discovery. Mr. Cooper does not want to pay for discovery. If the government wants to prosecute Mr. Johnson, it must provide counsel discovery. That means it should pay for discovery and give it to Mr. Cooper, not the other way around.

6. Requiring Mr. Johnson to pay for discovery used against him violates equal protection and due process clauses of the constitutions of Alabama and the United States of America.

Wherefore Mr. Johnson requests the following relief:

1. That the government immediately and at its own expense provide Mr. Johnson's attorney will all discovery, or
2. That the charges against Mr. Johnson be dismissed with prejudice for failure of the government to provide all discovery, or
3. That the government provide Mr. Johnson with only that discovery that pertains to the charges against him, or
4. All other appropriate relief.

RESPECTFULLY SUBMITTED,

/s/ James R. Cooper, Jr.
James R. Cooper, Jr. (COO021)
COOPER & COOPER
312 Scott Street
Montgomery, Alabama 36104
(334) 262-4887
(334) 262-4880 (Facsimile)

CERTIFICATE OF SERVICE

I hereby certify that on this the 2nd day of April, 2007 , I have served a copy of the foregoing Motion to Compel or Dismiss Upon Ms. Clark Morris, AUSA , at the last known address of: P.O. Box 197, Montgomery, Al By placing a copy of the same in the United States Mail properly addressed and postage prepaid and electronically.

/s/James R. Cooper, Jr.

JAMES R. COOPER, JR.

Cc:
Cliff Johnson
Montgomery City Jail
P. O. Drawer 159
Montgomery, AL 36104